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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation

MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 25th April, 1988/Vaisakha 5, 1910 (Saka)

The following Act of Parliament received the assent of the President on the 25th April, 1988, and is hereby published for general information:—

THE ILLEGAL MIGRANTS (DETERMINATION BY TRIBUNALS) AMENDMENT ACT, 1988

No. 24 OF 1988

[*25th April*, 1988.]

An Act to amend the Illegal Migrants (Determination by Tribunals) Act, 1983.

BE it enacted by Parliament in the Thirty-ninth Year of the Republic of India as follows:—

1. This Act may be called the Illegal Migrants (Determination by Tribunals) Amendment Act, 1988. Short title.

2. In section 5 of the Illegal Migrants (Determination by Tribunals) Act, 1983 (hereinafter referred to as the principal Act), in sub-section (3), for the words "three members", the words "two members" shall be substituted. Amendment of section 5.

39 of 1983.

3. In section 6 of the principal Act, for the words "any other member", the words "the member" shall be substituted. Amendment of section 6.

Amendment of section 8.

4. In section 8 of the principal Act,—

(*a*) in sub-section (*2*),—

(*i*) the words, brackets and figure "Without prejudice to the power conferred on the Central Government by sub-section (*1*)," shall be omitted;

(*ii*) for the proviso, the following proviso shall be substituted, namely:—

"Provided that no such application shall be entertained by the Tribunal unless the person in relation to whom the application is made is found, or resides, within the jurisdiction of the same police station wherein the applicant has his place of residence.";

(*b*) in sub-section (*3*),—

(*i*) for the words "two persons residing within three kilometres of the area", the words "two persons residing within the jurisdiction of the same police station" shall be substituted;

(*ii*) for the word "twenty-five", the word "ten" shall be substituted;

(*c*) for sub-section (*4*), the following sub-sections shall be substituted, namely:—

"(*4*) Every reference under sub-section (*1*) shall be made to the Tribunal within the territorial limits of whose jurisdiction the place of residence of the person named in such reference is, at the time of making such reference, situated:

Provided that where such person has no place of residence, the reference shall be made to the Tribunal within the territorial limits of whose jurisdiction such person is, at the time of making such reference, found.

(*5*) Every application under sub-section (*2*) shall be made to the Tribunal within the territorial limits of whose jurisdiction the person named in such application is found or, as the case may be, has his place of residence, at the time of making such application.".

Insertion of new section 8A.

5. After section 8 of the principal Act, the following section shall be inserted, namely:—

Application to the Central Government for reference.

"8A. (*1*) Any person may make an application to the Central Government, for decision by a Tribunal, as to whether the person whose name and other particulars are given in the application, is or is not an illegal migrant, and where any such application is received by the Central Government, it may, on the basis of any information in its possession or after making such inquiry as it deems fit, reject the application on the ground that the application is frivolous or vexatious or it does not comply with the requirements of this section or refer such application to a Tribunal for decision.

(2) Every application made under sub-section (1) shall be made in such form and in such manner as may be prescribed and shall be accompanied by a declaration by another person residing within the jurisdiction of the same revenue sub-division in which the applicant resides in such form as may be prescribed to the effect that the particulars mentioned in the application are true to his knowledge, information and belief:

Provided that no person shall make more than ten such applications or more than ten such declarations.

(3) Every reference under sub-section (1) shall be made to the Tribunal within the territorial limits of whose jurisdiction the place of residence of the person named in such reference is, at the time of making such reference, situated:

Provided that where such person has no place of residence, the reference shall be made to the Tribunal within the territorial limits of whose jurisdiction such person is, at the time of making such reference, found.".

Amendment of section 10.

6. In section 10 of the principal Act, for the word and figure "section 8", the words, figures, brackets and letter "section 8 or sub-section (1) of section 8A" shall be substituted.

Amendment of section 12.

7. In section 12 of the principal Act,—

(a) in sub-section (1), for the words and figure "section 8, or to which an application has been made under that section", the words, figures and letter "section 8 or section 8A, or to which an application has been made under section 8" shall be substituted;

(b) for sub-section (2), the following sub-section shall be substituted, namely:—

"(2) Where the members of the Tribunal differ in their opinion on any point, the Chairman of the Tribunal shall state the point or points on which they differ and make a reference to the President of the Appellate Tribunal which exercises jurisdiction in relation to the Tribunal who shall refer the case for hearing on such point or points by a member of another Tribunal under its jurisdiction and such point or points shall be decided according to the opinion of that member and such decision shall be deemed to be the decision of the Tribunal.";

(c) in sub-section (3), after the words "prescribed authority", the words "or authorities" shall be inserted.

Amendment of section 13.

8. In section 13 of the principal Act, for the words and figure "section 8 or application made to a Tribunal under that section", the words, figures and letter "section 8 or section 8A or application made to a Tribunal under section 8" shall be substituted.

Amendment of section 14.

9. In section 14 of the principal Act, after the words "that section", the words figure and letter "or any person named in a reference under section 8A" shall be inserted.

Amendment of section 15.

10. In section 15 of the principal Act,—

(*a*) in sub-section (*3*), for the words "less than three", the words "less than two" shall be substituted;

(*b*) in sub-section (*6*), for the words "and each bench shall consist of not less than two members", the words "which may either be single member benches or benches consisting of not less than two members" shall be substituted;

(*c*) for sub-section (*10*), the following sub-section shall be substituted, namely:—

"(*10*) Every Appellate Tribunal shall have the same powers as are vested in an appellate court under the Code of Civil Procedure, 1908, while hearing an appeal.". 5 of 1908.

Amendment of section 16.

11. In section 16 of the principal Act,—

(*a*) for sub-section (*3*), the following sub-section shall be substituted, namely:—

"(*3*) The Appellate Tribunal shall send a copy of every order passed by it under sub-section (*1*) to the parties to the appeal, to the Tribunal concerned and to the prescribed authority or authorities.";

(*b*) in sub-section (*4*), the words and figures "Subject to the provisions of section 17," shall be omitted.

Substitution of new section for section 17.

12. For section 17 of the principal Act, the following section shall be substituted, namely:—

Power of superintendence by Appellate Tribunals.

"17. (*1*) Every Appellate Tribunal shall have superintendence over all the Tribunals in the State.

(*2*) Without prejudice to the generality of the foregoing provisions, the Appellate Tribunal may—

(*a*) call for returns from any Tribunal;

(*b*) make general rules and specify forms for regulating the practice and proceedings of Tribunals; and

(*c*) specify the forms in which books, entries and accounts shall be kept by the officers of Tribunals.".

Amendment of section 20.

13. Section 20 of the principal Act shall be renumbered as sub-section (*1*) thereof, and after sub-section (*1*) as so renumbered, the following sub-section shall be inserted, namely:—

"(*2*) Any police officer not below the rank of a Superintendent of Police shall have such powers as may be necessary, including the power to obtain a bond from any person for the due compliance of an order under sub-section (*1*) and to arrest such person in the event of his failure to furnish such bond to the satisfaction of such police officer.".

Insertion of new section 21A.

14. After section 21 of the principal Act, the following section shall be inserted, namely:—

Power to bind certain persons against whom complaint is made under the Act.

"21A. Notwithstanding anything contained in any other law for the time being in force, it shall be lawful for a police officer not below the rank of a Superintendent of Police, if he is satisfied that the circumstances so require and for reasons to be recorded in writing, to direct any person against whom a reference or an application has been made under this Act to enter into a bond with or without sureties for making himself available for the inquiry and observance of such restrictions or conditions as may be specified by such police officer:

Provided that if such person fails to enter into such bond he may be arrested and detained in such manner as may be prescribed.".

Amendment of section 25.

15. In section 25 of the principal Act, for the words "shall be punishable with imprisonment for a term which may extend to three years and shall also be liable to fine.", the following shall be substituted, namely:—

"shall be punishable with imprisonment for a term which shall not be less than one year but which may extend to three years and with fine which shall not be less than two thousand rupees:

Provided that the court may, for adequate and special reasons to be mentioned in the judgment, impose a sentence of imprisonment for a term of less than one year or a fine of less than two thousand rupees.".

Amendment of section 28.

16. In section 28 of the principal Act, in sub-section (*2*),—

(*a*) after clause (*a*), the following clause shall be inserted, namely:—

"(*aa*) the form and the manner in which an application, and the form in which a declaration, may be made under sub-section (*2*) of section 8A;";

(*b*) for clause (*b*), the following clause shall be substituted, namely:—

"(*b*) the authority or authorities to be prescribed under sections 11, 12 and 16;";

(c) after clause (c), the following clause shall be inserted, namely:—

"(*ca*) the manner of arrest and detention under the proviso to section 21A;".

S. RAMAIAH,
Secy. to the Govt. of India.

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